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AMENDED IN SENATE JUNE 29, 2015

AMENDED IN SENATE JUNE 24, 2015

AMENDED IN ASSEMBLY APRIL 23, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 601

Introduced by Assembly Member Eggman
(Principal coauthor: Assembly Member Brown)
(Coauthors: Assembly Members Calderon and Mark Stone)
(Coauthor: Senator Block)

February 24, 2015

An act to amend Sections 1569.2, 1569.15, 1569.16, 1569.50, 1569.58, and 1569.618 of, and to add Section 1569.356 to, the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 601, as amended, Eggman. Residential care facilities for the elderly: licensing and regulation.

Existing law, the California Residential Care Facilities for the Elderly Act, provides for the licensure of residential care facilities for the elderly by the State Department of Social Services. Existing law requires any person seeking a license for a residential care facility for the elderly to file an application with the department, as specified. Among other required application information, if the applicant is a firm, association, organization, partnership, business trust, corporation, or company, evidence of reputable and responsible character is required to be submitted as to the members or shareholders thereof, and the person in

charge of the residential care facility for the elderly for which the application for issuance of license or special permit is made.

This bill would, among other things, additionally require the applicant to disclose specified information, including whether it is a for-profit or not-for-profit provider, the name, address, and license number of other health, residential, or community care facilities owned, managed, or operated by the same applicant or by any parent organization of the applicant, and the name and address of any person, organization, or entity that owns the real property in which specified facilities are located. The bill would require an applicant to provide additional information, including evidence of the right of possession of the facility prior to the time the license is granted. The bill would also require the department to cross-check specified applicant information, if electronically available, with the State Department of Public Health to determine if the applicant has a prior history of operating, holding a position in, or having ownership in, specified licensed facilities. The bill would require the information specified in these provisions to be provided to the department upon initial application for licensure, and any change in the information to be provided within 30 calendar days of the change, except as specified. The bill would authorize the department to assess an immediate civil penalty of \$1,000 for a violation of these provisions subsequent to licensure.

Existing law requires the Director of Social Services to establish an automated license information system on licensees and former licensees of licensed residential care facilities for the elderly. The system is required to maintain a record of any information that may be pertinent for licensure.

This bill would require, to the extent that the department's computer system can electronically accommodate additional information, the department to post on its Internet Web site specified information, including the current name, business address, and telephone number of the licensee.

Existing law authorizes the department to deny any application for a license to operate a residential care facility for the elderly or to suspend or revoke a license on certain grounds, including, but not limited to, a violation by the licensee of applicable provisions or of the rules and regulations adopted under those provisions, conduct that is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the state, or engaging in acts of financial malfeasance concerning the operation of a facility.

This bill would authorize those remedies to be applied if the department finds that specified persons or entities, including any employee, administrator, partner, officer, director, member, or manager of the applicant or licensee, has engaged in any of those conducts relating to specified licensed facilities in California or any other state. The bill would also authorize the department to deny an application for licensure or to subsequently revoke a license if the applicant knowingly withheld material information, made a false statement of material fact with regard to information that was required by the application for licensure, or did not disclose administrative disciplinary actions on the application as required.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1569.2 of the Health and Safety Code is
2 amended to read:
3 1569.2. As used in this chapter:
4 (a) “Administrator” means the individual designated by the
5 licensee to act on behalf of the licensee in the overall management
6 of the facility. The licensee, if an individual, and the administrator
7 may be one and the same person.
8 (b) “Beneficial ownership interest” means an ownership interest
9 through the possession of stock, equity in capital or any interest
10 in the profits of the applicant or licensee or through the possession
11 of such an interest in other entities that directly or indirectly hold
12 an interest in the applicant or licensee. The percentage of beneficial
13 ownership in the applicant or licensee that is held by any other
14 entity is determined by multiplying the other entities’ percentage
15 of ownership interest at each level.
16 (c) “Care and supervision” means the facility assumes
17 responsibility for, or provides or promises to provide in the future,
18 ongoing assistance with activities of daily living without which
19 the resident’s physical health, mental health, safety, or welfare
20 would be endangered. Assistance includes assistance with taking
21 medications, money management, or personal care.
22 (d) “Chain” means a group of two or more licensees that are
23 controlled, as defined in this section, by the same ~~person~~ *persons*
24 or entities.

1 (e) “Control” means the ability to direct the operation or
2 management of the applicant or licensee and includes the ability
3 to exercise control through intermediary or subsidiary entities.

4 (f) “Department” means the State Department of Social Services.

5 (g) “Director” means the Director of Social Services.

6 (h) “Health-related services” mean services that shall be directly
7 provided by an appropriate skilled professional, including a
8 registered nurse, licensed vocational nurse, physical therapist, or
9 occupational therapist.

10 (i) “Instrumental activities of daily living” means any of the
11 following: housework, meals, laundry, taking of medication, money
12 management, appropriate transportation, correspondence,
13 telephoning, and related tasks.

14 (j) “License” means a basic permit to operate a residential care
15 facility for the elderly.

16 (k) “Parent organization” means an organization in control of
17 another organization either directly or through one or more
18 intermediaries.

19 (l) “Personal activities of daily living” means any of the
20 following: dressing, feeding, toileting, bathing, grooming, and
21 mobility and associated tasks.

22 (m) “Personal care” means assistance with personal activities
23 of daily living, to help provide for and maintain physical and
24 psychosocial comfort.

25 (n) “Protective supervision” means observing and assisting
26 confused residents, including persons with dementia, to safeguard
27 them against injury.

28 (o) (1) “Residential care facility for the elderly” means a
29 housing arrangement chosen voluntarily by persons 60 years of
30 age or over, or their authorized representative, where varying levels
31 and intensities of care and supervision, protective supervision, or
32 personal care are provided, based upon their varying needs, as
33 determined in order to be admitted and to remain in the facility.
34 Persons under 60 years of age with compatible needs may be
35 allowed to be admitted or retained in a residential care facility for
36 the elderly as specified in Section 1569.316.

37 (2) This subdivision shall be operative only until the enactment
38 of legislation implementing the three levels of care in residential
39 care facilities for the elderly pursuant to Section 1569.70.

1 (p) “Residential care facility for the elderly” means a housing
2 arrangement chosen voluntarily by persons 60 years of age or over,
3 or their authorized representative, where varying levels and
4 intensities of care and supervision, protective supervision, personal
5 care, or health-related services are provided, based upon their
6 varying needs, as determined in order to be admitted and to remain
7 in the facility. Persons under 60 years of age with compatible needs
8 may be allowed to be admitted or retained in a residential care
9 facility for the elderly as specified in Section 1569.316.

10 This subdivision shall become operative upon the enactment of
11 legislation implementing the three levels of care in residential care
12 facilities for the elderly pursuant to Section 1569.70.

13 (q) “Sundowning” means a condition in which persons with
14 cognitive impairment experience recurring confusion,
15 disorientation, and increasing levels of agitation that coincide with
16 the onset of late afternoon and early evening.

17 (r) “Supportive services” means resources available to the
18 resident in the community that help to maintain their functional
19 ability and meet their needs as identified in the individual resident
20 assessment. Supportive services may include any of the following:
21 medical, dental, and other health care services; transportation;
22 recreational and leisure activities; social services; and counseling
23 services.

24 SEC. 2. Section 1569.15 of the Health and Safety Code is
25 amended to read:

26 1569.15. (a) Any person seeking a license for a residential
27 care facility for the elderly under this chapter shall file with the
28 department, pursuant to regulations, an application on forms
29 furnished by the department, that shall include, but not be limited
30 to, all of the following:

31 (1) Evidence satisfactory to the department of the ability of the
32 applicant to comply with this chapter and of rules and regulations
33 adopted under this chapter by the department.

34 (2) Evidence satisfactory to the department that the applicant
35 is of reputable and responsible character. The evidence shall
36 include, but not be limited to, a criminal record clearance pursuant
37 to Section 1569.17, employment history, and character references.
38 If the applicant is a firm, association, organization, partnership,
39 business trust, corporation, or company, like evidence shall be
40 submitted as to the individuals or entities holding a beneficial

1 ownership interest of 10 percent or more, and the person who has
2 operational control of the residential care facility for the elderly
3 for which the application for issuance of license or special permit
4 is made. Notwithstanding anything in this section, an applicant or
5 licensee is not required to disclose the names of investors in a
6 publicly traded company or investment fund if those investors are
7 silent investors who do not have influence or control over
8 operations of the company, fund, or facility.

9 (3) If applicable, the following information:

10 (A) Whether it is a for-profit or not-for-profit provider.

11 (B) The name, address, license number, and licensing agency
12 name of other health, residential, or community care facilities
13 owned, managed, or operated by the same applicant or by any
14 parent organization of the applicant.

15 (C) The name and business address of any person or entity that
16 controls, as defined in Section 1569.2, the applicant.

17 (D) If part of a chain, as defined in Section 1569.2, a diagram
18 indicating the relationship between the applicant and the persons
19 or entities that are part of the chain, including those that are
20 controlled by the same parties, and in a separate list, the name,
21 address, and license number, if applicable, for each person or entity
22 in the diagram.

23 (E) The name and address of any persons, organizations, or
24 entities that own the real property on which the facility seeking
25 licensure and the licensed facilities described in subparagraph (B)
26 are located.

27 (F) The name and address of any management company serving
28 the facility and the same information required of applicants in
29 subparagraphs (C) and (D) for the management company.

30 (4) Evidence satisfactory to the department that the applicant
31 has sufficient financial resources to maintain the standards of
32 service required by regulations adopted pursuant to this chapter.

33 (5) The name of the person with operational control of the
34 applicant, such as the chief executive officer, general partner,
35 owner or like party, and state that person's prior or present service
36 as an administrator, chief executive officer, general partner, director
37 like role of, or as a person who has held or holds a beneficial
38 ownership interest of 10 percent or more in, any residential care
39 facility for the elderly, in any facility licensed pursuant to Chapter
40 1 (commencing with Section 1200), Chapter 2 (commencing with

1 Section 1250), or Chapter 3 (commencing with Section 1500), or
2 a similarly licensed facility in California or any other state within
3 the past 10 years.

4 (6) The following information regarding the applicant and each
5 individual or entity identified pursuant to paragraph (5):

6 (A) Any revocation, suspension, probation, exclusion order, or
7 other similar administrative disciplinary action that was filed and
8 sustained in California or any other state, or in the process of being
9 adjudicated, against a facility associated with a person identified
10 pursuant to paragraph (5) or by any authority responsible for the
11 licensing of health, residential, or community care facilities within
12 the past 10 years.

13 (B) Copies of final findings, orders, or both, issued by any
14 health, residential, or community care licensing agency or any
15 court relevant to the actions described in subparagraph (A).

16 (C) Any petition for bankruptcy relief filed within five years of
17 the date of application involving operation or closure of a health,
18 residential, or community care facility licensed in California or
19 any other state, the court, date, and case number of the filing, and
20 whether a discharge was granted. If a discharge was not granted,
21 the applicant shall provide copies of any court findings supporting
22 denial of discharge.

23 (7) Any other information as may be required by the department
24 for the proper administration and enforcement of this chapter.

25 (8) Following the implementation of Article 7 (commencing
26 with Section 1569.70), evidence satisfactory to the department of
27 the applicant's ability to meet regulatory requirements for the level
28 of care the facility intends to provide.

29 (9) Evidence satisfactory to the department of adequate
30 knowledge of supportive services and other community supports
31 that may be necessary to meet the needs of elderly residents.

32 (10) A signed statement that the person desiring issuance of a
33 license has read and understood the residential care facility for the
34 elderly statute and regulations.

35 (11) Designation by the applicant of the individual who shall
36 be the administrator of the facility, including, if the applicant is
37 an individual, whether or not the applicant shall also be the
38 administrator.

1 (12) Evidence of the right of possession of the facility prior to
2 the time the license is granted, which may be satisfied by the
3 submission of a copy of the entire lease agreement or deed.

4 (13) Evidence of successfully completing a certified prelicensure
5 education program pursuant to Section 1569.23.

6 (14) For any facility that promotes or advertises or plans to
7 promote or advertise special care, special programming, or special
8 environments for persons with dementia, disclosure to the
9 department of the special features of the facility in its plan of
10 operation.

11 (b) The department shall cross-check all applicant information
12 disclosed pursuant to paragraph (5) of subdivision (a), if
13 electronically available, with the State Department of Public Health
14 to determine if the applicant has a prior history of operating,
15 holding a position in, or having ownership in, any entity specified
16 in paragraph (5) of subdivision (a).

17 (c) Failure of the applicant to cooperate with the licensing
18 agency in the completion of the application may result in the denial
19 of the application. Failure to cooperate means that the information
20 described in this section and in the regulations of the department
21 has not been provided, or has not been provided in the form
22 requested by the licensing agency, or both.

23 (d) The information required by this section shall be provided
24 to the department upon initial application for licensure, and any
25 change in the information shall be provided to the department
26 within 30 calendar days of that change unless a shorter timeframe
27 is required by the department. A licensee of multiple facilities may
28 provide a single notice of changes to the department on behalf of
29 all licensed facilities within the chain. Information pertaining to
30 facilities operated in other states may be updated on an annual
31 basis, except for the following information:

32 (1) Information specified in paragraph (6) of subdivision (a)
33 shall be updated within 30 calendar days of the change.

34 (2) Information specified in subparagraph (B) of paragraph (3)
35 of subdivision (a) shall be updated within six months after the
36 change.

37 (e) An applicant or licensee shall maintain an email address of
38 record with the department. The applicant or licensee shall provide
39 written notification to the department of the email address and of

1 any change to the email address within 10 business days of the
2 change.

3 (f) (1) The department may deny an application for licensure
4 or may subsequently revoke a license under this chapter if the
5 applicant knowingly withheld material information or made a false
6 statement of material fact with regard to information that was
7 required by the application for licensure.

8 (2) The department may deny an application for licensure or
9 may subsequently revoke a license under this chapter if the
10 applicant did not disclose administrative disciplinary actions on
11 the application as required by paragraph (6) of subdivision (a).

12 (3) In addition to the remedies provided under this chapter, the
13 department may, subsequent to licensure, assess a civil penalty of
14 one thousand dollars (\$1,000) for a material violation of this
15 section.

16 SEC. 3. Section 1569.16 of the Health and Safety Code is
17 amended to read:

18 1569.16. (a) (1) If an application for a license indicates, or
19 the department determines during the application review process,
20 that the applicant previously was issued a license under this chapter
21 or under Chapter 1 (commencing with Section 1200), Chapter 2
22 (commencing with Section 1250), Chapter 3 (commencing with
23 Section 1500), Chapter 3.01 (commencing with Section 1568.01),
24 Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5
25 (commencing with Section 1596.90), or Chapter 3.6 (commencing
26 with Section 1597.30) and the prior license was revoked within
27 the preceding two years, the department shall cease any further
28 review of the application until two years have elapsed from the
29 date of the revocation. All residential care facilities for the elderly
30 are exempt from the health planning requirements contained in
31 Part 2 (commencing with Section 127125) of Division 107.

32 (2) If an application for a license or special permit indicates, or
33 the department determines during the application review process,
34 that the applicant previously was issued a certificate of approval
35 by a foster family agency that was revoked by the department
36 pursuant to subdivision (b) of Section 1534 within the preceding
37 two years, the department shall cease any further review of the
38 application until two years shall have elapsed from the date of the
39 revocation.

1 (3) If an application for a license or special permit indicates, or
2 the department determines during the application review process,
3 that the applicant was excluded from a facility licensed by the
4 department pursuant to Section 1558, 1568.092, 1569.58, or
5 1596.8897, the department shall cease any further review of the
6 application unless the excluded individual has been reinstated
7 pursuant to Section 11522 of the Government Code by the
8 department.

9 (b) If an application for a license or special permit indicates, or
10 the department determines during the application review process,
11 that the applicant had previously applied for a license under any
12 of the chapters listed in paragraph (1) of subdivision (a) and the
13 application was denied within the last year, the department shall,
14 except as provided in Section 1569.22, cease further review of the
15 application until one year has elapsed from the date of the denial
16 letter. In those circumstances where denials are appealed and
17 upheld at an administrative hearing, review of the application shall
18 cease for one year from the date of the decision and order being
19 rendered by the department. The cessation of review shall not
20 constitute a denial of the application. If there are coapplicants and
21 the department denies a license due to concerns pertaining solely
22 to one of the coapplicants, any other coapplicant may withdraw
23 its application, and with the department's written consent pursuant
24 to Section 1569.52, shall not be deemed to have a license
25 application denied.

26 (c) If an application for a license or special permit indicates, or
27 the department determines during the application review process,
28 that the applicant had previously applied for a certificate of
29 approval with a foster family agency and the department ordered
30 the foster family agency to deny the application pursuant to
31 subdivision (b) of Section 1534, the department shall cease further
32 review of the application as follows:

33 (1) In cases where the applicant petitioned for a hearing, the
34 department shall cease further review of the application until one
35 year has elapsed from the effective date of the decision and order
36 of the department upholding a denial.

37 (2) In cases where the department informed the applicant of his
38 or her right to petition for a hearing and the applicant did not
39 petition for a hearing, the department shall cease further review

1 of the application until one year has elapsed from the date of the
2 notification of the denial and the right to petition for a hearing.

3 (3) The department may continue to review the application if
4 it has determined that the reasons for the denial of the application
5 were due to circumstances and conditions that either have been
6 corrected or are no longer in existence.

7 (d) The cessation of review shall not constitute a denial of the
8 application for purposes of Section 1526 or any other law.

9 SEC. 4. Section 1569.356 is added to the Health and Safety
10 Code, to read:

11 1569.356. To the extent that the department's computer system
12 can electronically accommodate additional residential care facility
13 for the elderly profile information, the department shall post on
14 its Internet Web site the current name, business address, and
15 telephone number of the licensee, the name of the owner of the
16 residential care facility for the elderly, if not the same as the
17 licensee, the name of any parent organization, the licensed capacity
18 of the facility, including the capacity for nonambulatory residents,
19 whether the facility is permitted to accept and retain residents
20 receiving hospice care services, whether the facility has a special
21 care unit or program for people with Alzheimer's disease and other
22 dementias and has a delayed egress or secured perimeter system
23 in place, or both, and information required pursuant to
24 subparagraph (B) of paragraph (3) of subdivision (a) of Section
25 1569.15.

26 SEC. 5. Section 1569.50 of the Health and Safety Code is
27 amended to read:

28 1569.50. (a) The department may deny an application for a
29 license or may suspend or revoke a license issued under this chapter
30 upon any of the following grounds and in the manner provided in
31 this chapter:

32 (1) Violation by the licensee of this chapter or of the rules and
33 regulations adopted under this chapter.

34 (2) Aiding, abetting, or permitting the violation of this chapter
35 or of the rules and regulations adopted under this chapter.

36 (3) Conduct that is inimical to the health, morals, welfare, or
37 safety of either an individual in or receiving services from the
38 facility or the people of the State of California.

1 (4) The conviction of a licensee, or other person mentioned in
2 Section 1569.17 at any time before or during licensure, of a crime
3 as defined in Section 1569.17.

4 (5) Engaging in acts of financial malfeasance concerning the
5 operation of a facility, including, but not limited to, improper use
6 or embezzlement of client moneys and property or fraudulent
7 appropriation for personal gain of facility moneys and property,
8 or willful or negligent failure to provide services for the care of
9 clients.

10 (b) The remedies provided in this section may be applied if the
11 department finds that any employee, administrator, partner, officer,
12 director, member, or manager of the applicant or licensee, any
13 person who controls, as defined in Section 1569.2, the licensee,
14 or any person who holds a beneficial ownership interest of 10
15 percent or more in the applicant or licensee has engaged in the
16 conduct described in subdivision (a) related to any facility licensed
17 pursuant to Chapter 1 (commencing with Section 1200), Chapter
18 2 (commencing with Section 1250), or Chapter 3 (commencing
19 with Section 1500), or a similarly licensed facility in California
20 or any other state.

21 (c) The director may temporarily suspend a license, prior to a
22 hearing when, in the opinion of the director, the action is necessary
23 to protect residents or clients of the facility from physical or mental
24 abuse, abandonment, or any other substantial threat to health or
25 safety. The director shall notify the licensee of the temporary
26 suspension and the effective date of the temporary suspension and
27 at the same time shall serve the provider with an accusation. Upon
28 receipt of a notice of defense to the accusation by the licensee, the
29 director shall, within 15 days, set the matter for hearing, and the
30 hearing shall be held as soon as possible but not later than 30 days
31 after receipt of the notice. The temporary suspension shall remain
32 in effect until the time the hearing is completed and the director
33 has made a final determination on the merits. However, the
34 temporary suspension shall be deemed vacated if the director fails
35 to make a final determination on the merits within 30 days after
36 the original hearing has been completed.

37 (d) A licensee who abandons the facility and the residents in
38 care resulting in an immediate and substantial threat to the health
39 and safety of the abandoned residents, in addition to revocation of
40 the license pursuant to this section, shall be excluded from licensure

1 in facilities licensed by the department without the right to petition
2 for reinstatement.

3 SEC. 6. Section 1569.58 of the Health and Safety Code is
4 amended to read:

5 1569.58. (a) The department may prohibit any person from
6 being a licensee, owning a beneficial ownership interest of 10
7 percent or more in a licensed facility, or being an administrator,
8 officer, director, member, or manager of a licensee or entity
9 controlling a licensee, and may further prohibit any licensee from
10 employing, or continuing the employment of, or allowing in a
11 licensed facility, or allowing contact with clients of a licensed
12 facility by, any employee, prospective employee, or person who
13 is not a client and who has done any of the following:

14 (1) Violated, or aided or permitted the violation by any other
15 person of, any provisions of this chapter or of any rules or
16 regulations promulgated under this chapter.

17 (2) Engaged in conduct that is inimical to the health, morals,
18 welfare, or safety of either an individual in or receiving services
19 from the facility, or the people of the State of California.

20 (3) Been denied an exemption to work or to be present in a
21 facility, when that person has been convicted of a crime as defined
22 in Section 1569.17.

23 (4) Engaged in any other conduct that would constitute a basis
24 for disciplining a licensee.

25 (5) Engaged in acts of financial malfeasance concerning the
26 operation of a facility, including, but not limited to, improper use
27 or embezzlement of client moneys and property or fraudulent
28 appropriation for personal gain of facility moneys and property,
29 or willful or negligent failure to provide services for the care of
30 clients.

31 (b) The excluded person, the facility, and the licensee shall be
32 given written notice of the basis of the department's action and of
33 the excluded person's right to an appeal. The notice shall be served
34 either by personal service or by registered mail. Within 15 days
35 after the department serves the notice, the excluded person may
36 file with the department a written appeal of the exclusion order.
37 If the excluded person fails to file a written appeal within the
38 prescribed time, the department's action shall be final.

39 (c) (1) The department may require the immediate removal of
40 a member of the board of directors, an executive director, or an

1 officer of a licensee or exclusion of an employee, prospective
2 employee, or person who is not a client from a facility pending a
3 final decision of the matter, when, in the opinion of the director,
4 the action is necessary to protect residents or clients from physical
5 or mental abuse, abandonment, or any other substantial threat to
6 their health or safety.

7 (2) If the department requires the immediate removal of a
8 member of the board of directors, an executive director, or an
9 officer of a licensee or exclusion of an employee, prospective
10 employee, or person who is not a client from a facility the
11 department shall serve an order of immediate exclusion upon the
12 excluded person that shall notify the excluded person of the basis
13 of the department's action and of the excluded person's right to a
14 hearing.

15 (3) Within 15 days after the department serves an order of
16 immediate exclusion, the excluded person may file a written appeal
17 of the exclusion with the department. The department's action
18 shall be final if the excluded person does not appeal the exclusion
19 within the prescribed time. The department shall do the following
20 upon receipt of a written appeal:

21 (A) Within 30 days of receipt of the appeal, serve an accusation
22 upon the excluded person.

23 (B) Within 60 days of receipt of a notice of defense by the
24 excluded person pursuant to Section 11506 of the Government
25 Code, conduct a hearing on the accusation.

26 (4) An order of immediate exclusion of the excluded person
27 from the facility shall remain in effect until the hearing is
28 completed and the director has made a final determination on the
29 merits. However, the order of immediate exclusion shall be deemed
30 vacated if the director fails to make a final determination on the
31 merits within 60 days after the original hearing has been completed.

32 (d) An excluded person who files a written appeal of the
33 exclusion order with the department pursuant to this section shall,
34 as part of the written request, provide his or her current mailing
35 address. The excluded person shall subsequently notify the
36 department in writing of any change in mailing address, until the
37 hearing process has been completed or terminated.

38 (e) Hearings held pursuant to this section shall be conducted in
39 accordance with Chapter 5 (commencing with Section 11500) of
40 Division 3 of Title 2 of the Government Code. The standard of

1 proof shall be the preponderance of the evidence and the burden
2 of proof shall be on the department.

3 (f) The department may institute or continue a disciplinary
4 proceeding against a member of the board of directors, an executive
5 director, or an officer of a licensee or an employee, prospective
6 employee, or person who is not a client upon any ground provided
7 by this section. The department may enter an order prohibiting
8 any person from being a member of the board of directors, an
9 executive director, or an officer of a licensee, or prohibiting the
10 excluded person's employment or presence in the facility, or
11 otherwise take disciplinary action against the excluded person,
12 notwithstanding any resignation, withdrawal of employment
13 application, or change of duties by the excluded person, or any
14 discharge, failure to hire, or reassignment of the excluded person
15 by the licensee or that the excluded person no longer has contact
16 with clients at the facility.

17 (g) A licensee's failure to comply with the department's
18 exclusion order after being notified of the order shall be grounds
19 for disciplining the licensee pursuant to Section 1569.50.

20 (h) (1) (A) In cases where the excluded person appealed the
21 exclusion order and there is a decision and order of the department
22 upholding the exclusion order, the person shall be prohibited from
23 working in any facility or being licensed to operate any facility
24 licensed by the department or from being a certified foster parent
25 for the remainder of the excluded person's life, unless otherwise
26 ordered by the department.

27 (B) The excluded individual may petition for reinstatement one
28 year after the effective date of the decision and order of the
29 department upholding the exclusion order pursuant to Section
30 11522 of the Government Code. The department shall provide the
31 excluded person with a copy of Section 11522 of the Government
32 Code with the decision and order.

33 (2) (A) In cases where the department informed the excluded
34 person of his or her right to appeal the exclusion order and the
35 excluded person did not appeal the exclusion order, the person
36 shall be prohibited from working in any facility or being licensed
37 to operate any facility licensed by the department or a certified
38 foster parent for the remainder of the excluded person's life, unless
39 otherwise ordered by the department.

1 (B) The excluded individual may petition for reinstatement after
2 one year has elapsed from the date of the notification of the
3 exclusion order pursuant to Section 11522 of the Government
4 Code. The department shall provide the excluded person with a
5 copy of Section 11522 of the Government Code with the exclusion
6 order.

7 SEC. 7. Section 1569.618 of the Health and Safety Code is
8 amended to read:

9 1569.618. (a) The administrator designated by the licensee
10 pursuant to paragraph (11) of subdivision (a) of Section 1569.15
11 shall be present at the facility during normal working hours. A
12 facility manager designated by the licensee with notice to the
13 department, shall be responsible for the operation of the facility
14 when the administrator is temporarily absent from the facility.

15 (b) At least one administrator, facility manager, or designated
16 substitute who is at least 21 years of age and has qualifications
17 adequate to be responsible and accountable for the management
18 and administration of the facility pursuant to Title 22 of the
19 California Code of Regulations shall be on the premises 24 hours
20 per day. The designated substitute may be a direct care staff
21 member who shall not be required to meet the educational,
22 certification, or training requirements of an administrator. The
23 designated substitute shall meet qualifications that include, but are
24 not limited to, all of the following:

25 (1) Knowledge of the requirements for providing care and
26 supervision appropriate to each resident of the facility.

27 (2) Familiarity with the facility's planned emergency procedures.

28 (3) Training to effectively interact with emergency personnel
29 in the event of an emergency call, including an ability to provide
30 a resident's medical records to emergency responders.

31 (c) The facility shall employ, and the administrator shall
32 schedule, a sufficient number of staff members to do all of the
33 following:

34 (1) Provide the care required in each resident's written record
35 of care as described in Section 1569.80.

36 (2) Ensure the health, safety, comfort, and supervision of the
37 residents.

38 (3) Ensure that at least one staff member who has
39 cardiopulmonary resuscitation (CPR) training and first aid training

1 is on duty and on the premises at all times. This paragraph shall
2 not be construed to require staff to provide CPR.

3 (4) Ensure that the facility is clean, safe, sanitary, and in good
4 repair at all times.

5 (d) “Facility manager” means a person on the premises with the
6 authority and responsibility necessary to manage and control the
7 day-to-day operation of a residential care facility for the elderly
8 and supervise the clients. The facility manager, licensee, and
9 administrator, or any combination thereof, may be the same person
10 provided he or she meets all applicable requirements. If the
11 administrator is also the facility manager for the same facility, he
12 or she shall be limited to the administration and management of
13 only one facility.